**(2025) 03 KAR CK 0514**

**In the Karnataka High Court, Principal Bench**

**Case No :** Writ Petition No. 258 Of 2025 (T-RES)

M/S Shiva Enterprises APPELLANT

Vs

State Of Karnataka & Ors. RESPONDENT

**Date of Decision :** 24-03-2025

**Acts Referred:**

Indian Penal Code, 1860 — Section 149, 379

Karnataka Forest Act, 1963 — Section 86

**Citation :** (2025) 03 KAR CK 0514

**Hon'ble Judges :** V. Srishananda, J

**Bench :** Single Bench

**Advocate :** Gouri Shankar Mot, Girija S. Hiremath

**Final Decision :** Allowed

# Judgement

S.R. Krishna Kumar, J

1. In this petition, the petitioner seeks for the following reliefs:

"a. Issue a writ or order in the nature of Certiorari to quash the Order of Adjudication bearing No.CTO/LGSTO-155/DRC-7/809/2024-25 dated 27.06.2024 passed and summary of the said order issued in DRC-07 ARN No.ZD290624140404G dated 29.06.2024 by the 4th respondent (Annexure-A);

b. Issue a writ or order in the nature of Certiorari to quash the order bearing No.CTO/Audit/CTP/134/2023-24/T.No.63/2024-25 dated 31.08.2024 passed and summary of the said order issued in DRC-07 ARN NO.ZD290824113680B dated 31.08.2024 by the 5th respondent (Annexure-B);

c. Issue writ, order or direction in the nature of Mandamus directing the 4th respondent to re-assess the GST liability for the period 2019-2020 under Section 73 of CGST/KGST Act, 2017; and

d. Pass such other orders as may be deemed appropriate under the circumstances of the case, in the ends of justice."

 

2. A perusal of the material on record would indicate that the 4th respondent - The Commercial Tax Officer, Ramanagara, instituted proceedings under Section 73 of the KGST Act against the petitioner, which culminated in the impugned order at Annexure – A dated 27.06.2024 for the tax period 2019-2020. Subsequently, the 5th respondent-The Commercial Tax Officer (Audit), Channapatna also initiated proceedings against the petitioner in relation to the very same subject matter and for the very same tax period 2019-2020, which also culminated in the impugned order at Annexure - B dated 31.08.2024. It is contended that having regard to two identical orders passed by the 4th and 5th respondents, both the impugned orders deserve to be set aside and the matter remitted back to the 4th respondent - The Commercial Tax Officer, Ramanagara, with directions to pass appropriate order afresh and to enable the petitioner to avail the benefits of the Amnesty Scheme under Section 128(A) of the KGST Act, in accordance with law.

3. Per contra, learned High Court Government Pleader for respondents submits that there is no merit in the petition and that the same is liable to be dismissed.

4. As rightly contended by learned counsel for the petitioner in relation to very same tax period 2019-2020 and the same subject matter in respect of the very same petitioner, both 4th respondent - The Commercial Tax Officer, Ramanagara as well as the 5th respondent - the Commercial Tax Officer(Audit),Channapatna have passed similar orders, under identical circumstances against the very same petitioner under Section 73(9) of the KGST Act, which is impermissible in law. It is also relevant to state that in view of the specific submission made on behalf of the petitioner that he intends to avail the benefits of Amnesty Scheme as contemplated under Section 128(A) of the KGST Act, I deem it appropriate to set aside both the impugned orders at Annexure - A dated 27.06.2024 and Annexure –B dated 31.08.2024 and remit the matter back to the 4th respondent - The Commercial Tax Officer, Ramanagara for re-consideration afresh, in accordance with law and by issuing certain directions.

5. Accordingly, I pass the following:

ORDER

(i) The writ petition is allowed.

(ii) The impugned order at Annexure-A dated 27.06.2024 and the impugned order at Annexure-B 31.08.2024, passed by 4th and 5th respondents, respectively, are hereby set aside.

(iii) Matter is remitted back to the 4th respondent - The Commercial Tax Officer, Ramanagara for reconsideration afresh in accordance with law.

(iv) The petitioner shall appear before the 4th respondent on 26.03.2025 at 11.00 a.m., without awaiting further notice from the 4th respondent.

(v) The 4th respondent shall reconsider the matter afresh and pass appropriate orders on or before 28.03.2025.

(vi) Liberty is reserved in favour of the petitioner to make necessary applications/ requests to avail the benefit of the Amnesty scheme under Section 128(A) of KGST Act.

(vii) Immediately upon the 4th respondent passing appropriate orders on or before 28.03.2025, as stated supra, the 3rd respondent shall grant the benefit of Amnesty scheme under Section 73(9) of the KGST Act in favour of the petitioner, in accordance with law.

 